

IN RE: APPEAL OF DANIEL HERRERA RELATIVE TO A PROPERTY LOCATED AT 150 W. DOUGLASS STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2021-38 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
 BOARD OF THE CITY OF READING**

AND NOW, this 9th day of February, 2022, a hearing having been held on January 12, 2022, upon the application of Daniel Herrera, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is Daniel Herrera, an adult individual residing at 441 E. 136th Street, Apt. 4F, Bronx, New York 10454 (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of property located at 150 W. Douglass Street, City of Reading, Berks County, Pennsylvania 19601 (hereinafter referred to as the “Subject Property”).
3. The Subject Property is located in the R-3 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).
4. Applicant is requesting a variance and special exception to convert the second story of an existing accessory building (garage) into a one-room studio apartment or alternatively seeks a variance from the prohibition on residential use in an accessory building and associated requirements.
5. Applicant lives in New York and owns other rental properties within the City of Reading.

6. Applicant wants to convert the second floor of the existing garage into a one-room studio apartment so he has a place to stay when he comes to Reading.

7. Applicant has installed a bathroom on the second floor of the garage.

8. Section 600-902.A. of the Zoning Ordinance prohibits the conversion of accessory buildings into dwelling units “unless specifically allowed by this chapter.” The Zoning Ordinance does not specifically allow for the conversion of an accessory building into a dwelling unit in the R-3 Residential Zoning District.

9. Section 600-902.E. of the Zoning Ordinance states, “A new principal building shall not be allowed if the lot only abuts an alley and not a street, unless the applicant proves to the Zoning Hearing Board as a special exception that no other reasonable use of the property is feasible.”

10. Section 600-1001.F. of the Zoning Ordinance states, “Human habitation in accessory buildings is prohibited.”

11. There is already a multi-family building serving as a principal use at the Subject Property with the existing garage currently serving as an accessory use.

12. Section 600-1002 of the Zoning Ordinance does not allow for private garages to be higher than one-story “except a second story may be used for household storage.” Also, “any garage that is larger than 600 square feet in building floor area shall meet the principal building setbacks.”

13. Applicant is proposing to use the second story of the garage as a dwelling unit which is not permitted, and the existing garage currently has a rear yard setback of zero.

14. Section 600-1101.D.(3) of the Zoning Ordinance states that studio apartments are limited to buildings with 4 or more dwelling units and must be a minimum of 400 square feet.

15. The proposed studio apartment would be the only dwelling unit within the garage structure and measures only 301 square feet which is below the minimum habitable area required.

16. In order to grant a variance, Applicant must show a hardship at the Subject Property which would not permit the Subject Property to be used in conformity with the Zoning Ordinance.

17. Applicant did not present credible testimony that the Subject Property is incapable of being used in conformity with the Zoning Ordinance.

18. There is no hardship to support the requested relief.

19. There were no objections presented at the hearing.

DISCUSSION

Applicant is requesting a variance and special exception to convert the second story of an existing accessory building (garage) into a one-room studio apartment or alternatively seeks a variance from the prohibition on residential use in an accessory building and associated requirements. The Zoning Board finds the Subject Property is capable of being used in accordance with the Zoning Ordinance and that no hardship exists.

CONCLUSIONS OF LAW

1. Applicant is Daniel Herrera.
2. The Subject Property is located at 150 W. Douglass Street, Reading, Berks County, Pennsylvania 19601.
3. The Subject Property is located in the R-3 Residential Zoning District.
4. Applicant seeks relief to convert the second story of an existing accessory building (garage) into a one-room studio apartment or alternatively seeks a variance from the prohibition on residential use in an accessory building and associated requirements.
5. The Zoning Board incorporates the findings of fact and conclusions of law as though fully set forth at length herein.
6. The Zoning Board is permitted to grant applications for variance(s) and/or special exception(s) as set forth in the Zoning Ordinance.
7. In order to grant the variances, the Applicant must show he has satisfied the relevant sections of the Zoning Ordinance.
8. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:

a. Applicant is denied the variance because no hardship exists at the Subject Property and the Subject Property can be used in strict conformity with the Zoning Ordinance.

The decision of this Board is by a vote of 4 to 0.

**ZONING HEARING BOARD OF THE CITY
OF READING**

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ William Harst

WILLIAM HARST